

---

---

## A BILL FOR AN ACT

RELATING TO URBAN AGRICULTURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§46-4 County zoning. (a) This section and any  
4 ordinance, rule, or regulation adopted in accordance with this  
5 section shall apply to lands not contained within the forest  
6 reserve boundaries as established on January 31, 1957, or as  
7 subsequently amended.

8           Zoning in all counties shall be accomplished within the  
9 framework of a long-range, comprehensive general plan prepared  
10 or being prepared to guide the overall future development of the  
11 county. Zoning shall be one of the tools available to the  
12 county to put the general plan into effect in an orderly manner.  
13 Zoning in the counties of Hawaii, Maui, and Kauai means the  
14 establishment of districts of such number, shape, and area, and  
15 the adoption of regulations for each district to carry out the  
16 purposes of this section. In establishing or regulating the  
17 districts, full consideration shall be given to all available



1 data as to soil classification and physical use capabilities of  
2 the land to allow and encourage the most beneficial use of the  
3 land consonant with good zoning practices. Full consideration  
4 shall also be given to urban agriculture principles and  
5 policies. The zoning power granted herein shall be exercised by  
6 ordinance which may relate to:

- 7 (1) The areas within which agriculture, forestry,  
8 industry, trade, and business may be conducted;
- 9 (2) The areas in which residential uses may be regulated  
10 or prohibited;
- 11 (3) The areas bordering natural watercourses, channels,  
12 and streams, in which trades or industries, filling or  
13 dumping, erection of structures, and the location of  
14 buildings may be prohibited or restricted;
- 15 (4) The areas in which particular uses may be subjected to  
16 special restrictions;
- 17 (5) The location of buildings and structures designed for  
18 specific uses and designation of uses for which  
19 buildings and structures may not be used or altered;
- 20 (6) The location, height, bulk, number of stories, and  
21 size of buildings and other structures;



- 1           (7) The location of roads, schools, and recreation areas;
- 2           (8) Building setback lines and future street lines;
- 3           (9) The density and distribution of population;
- 4           (10) The percentage of a lot that may be occupied, size of
- 5                 yards, courts, and other open spaces;
- 6           (11) Minimum and maximum lot sizes; and
- 7           (12) Other regulations the boards or city council find
- 8                 necessary and proper to permit and encourage the
- 9                 orderly development of land resources within their
- 10                jurisdictions.

11           The council of any county shall prescribe rules,  
12 regulations, and administrative procedures and provide personnel  
13 it finds necessary to enforce this section and any ordinance  
14 enacted in accordance with this section. The ordinances may be  
15 enforced by appropriate fines and penalties, civil or criminal,  
16 or by court order at the suit of the county or the owner or  
17 owners of real estate directly affected by the ordinances.

18           Any civil fine or penalty provided by ordinance under this  
19 section may be imposed by the district court, or by the zoning  
20 agency after an opportunity for a hearing pursuant to chapter



1 91. The proceeding shall not be a prerequisite for any  
2 injunctive relief ordered by the circuit court.

3 Nothing in this section shall invalidate any zoning  
4 ordinance or regulation adopted by any county or other agency of  
5 government pursuant to the statutes in effect prior to July 1,  
6 1957.

7 The powers granted herein shall be liberally construed in  
8 favor of the county exercising them, and in such a manner as to  
9 promote the orderly development of each [~~county or city and~~  
10 county in accordance with a long-range, comprehensive general  
11 plan to ensure the greatest benefit for the State as a whole.  
12 This section shall not be construed to limit or repeal any  
13 powers of any county to achieve these ends through zoning and  
14 building regulations, except insofar as forest and water reserve  
15 zones are concerned and as provided in subsections (c) and (d).

16 Neither this section nor any ordinance enacted pursuant to  
17 this section shall prohibit the continued lawful use of any  
18 building or premises for any trade, industrial, residential,  
19 agricultural, or other purpose for which the building or  
20 premises is used at the time this section or the ordinance takes  
21 effect; provided that a zoning ordinance may provide for



1 elimination of nonconforming uses as the uses are discontinued,  
2 or for the amortization or phasing out of nonconforming uses or  
3 signs over a reasonable period of time in commercial,  
4 industrial, resort, and apartment zoned areas only. In no event  
5 shall such amortization or phasing out of nonconforming uses  
6 apply to any existing building or premises used for residential  
7 (single-family or duplex) or agricultural uses. Nothing in this  
8 section shall affect or impair the powers and duties of the  
9 director of transportation as set forth in chapter 262.

10 (b) Any final order of a zoning agency established under  
11 this section may be appealed to the circuit court of the circuit  
12 in which the land in question is found. The appeal shall be in  
13 accordance with the Hawaii rules of civil procedure.

14 (c) Each county may adopt reasonable standards to allow  
15 the construction of two single-family dwelling units on any lot  
16 where a residential dwelling unit is permitted.

17 (d) Neither this section nor any other law, county  
18 ordinance, or rule shall prohibit group living in facilities  
19 with eight or fewer residents for purposes or functions that are  
20 licensed, certified, registered, or monitored by the State;  
21 provided that a resident manager or a resident supervisor and



1 the resident manager's or resident supervisor's family shall not  
2 be included in this resident count. These group living  
3 facilities shall meet all applicable county requirements not  
4 inconsistent with the intent of this subsection, including but  
5 not limited to building height, setback, maximum lot coverage,  
6 parking, and floor area requirements.

7 (e) Neither this section nor any other law, county  
8 ordinance, or rule shall prohibit the use of land for employee  
9 housing and community buildings in plantation community  
10 subdivisions as defined in section 205-4.5(a)(12); in addition,  
11 no zoning ordinance shall provide for the elimination,  
12 amortization, or phasing out of plantation community  
13 subdivisions as a nonconforming use.

14 (f) Neither this section nor any other law, county  
15 ordinance, or rule shall prohibit the use of land for medical  
16 marijuana production centers or medical marijuana dispensaries  
17 established and licensed pursuant to chapter 329D; provided that  
18 the land is otherwise zoned for agriculture, manufacturing, or  
19 retail purposes.



# H.B. NO. 2116

1        (g) Urban agriculture shall be considered a residential  
 2 use of property and shall be a permitted use in residentially  
 3 designated zones.

4        For the purposes of this subsection, "urban agriculture"  
 5 means the practice of cultivating, processing, and distributing  
 6 food in or around a residential neighborhood, town, or city,  
 7 including the production, processing, and marketing of food,  
 8 fuel, and other agricultural outputs, in response to the daily  
 9 demand of consumers within a residential neighborhood, town, or  
 10 city on various types of privately or publicly held land and  
 11 water bodies found throughout intra-urban and peri-urban areas."

12        SECTION 2. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14        SECTION 3. This Act shall take effect upon its approval.

15

INTRODUCED BY:



**By Request**

**JAN 22 2016**



# H.B. NO. 2116

**Report Title:**

County Zoning; Residential Uses; Urban Agriculture

**Description:**

Requires the counties to incorporate urban agriculture principles and policies in land use planning and to allow urban agriculture as a residential use in a residentially designated zone.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

